

Small Business Administration

§ 123.9

the declared disaster area without geographic separation other than by a minor body of water, not to exceed one mile between the land areas of such counties.

[61 FR 3304, Jan. 31, 1996, as amended at 67 FR 64519, Oct. 21, 2002; 75 FR 60597, Oct. 1, 2010]

§ 123.5 What kinds of loans are available?

(a) *Disaster loans authorized under Section 7(b).* SBA offers four kinds of disaster loans as authorized by Section 7(b) of the Small Business Act: Physical disaster home loans, physical disaster business loans, economic injury disaster business loans, and Military Reservist EIDL loans. SBA makes these loans directly or in participation with a financial institution. If a disaster loan authorized under Section 7(b) is made in participation with a financial institution, SBA's share in that loan may not exceed 90 percent.

(b) *IDAP loans.* SBA also offers IDAP loans as authorized by Section 42 of the Small Business Act. SBA makes these interim guaranteed disaster loans to small businesses only in participation with a financial institution. SBA's share in an IDAP loan is equal to 85 percent.

[75 FR 60597, Oct. 1, 2010]

§ 123.6 What does SBA look for when considering a disaster loan applicant?

There must be reasonable assurance that you can repay your loan based on SBA's analysis of your credit or your personal or business cash flow, and you must also have satisfactory character. SBA will not make a loan to you if repayment depends upon the sale of collateral through foreclosure or any other disposition of assets owned by you. SBA is prohibited by statute from making a loan to you if you are engaged in the production or distribution of any product or service that has been determined to be obscene by a court.

[61 FR 3304, Jan. 31, 1996, as amended at 79 FR 22862, Apr. 25, 2014]

§ 123.7 Are there restrictions on how disaster loans can be used?

You must use disaster loans to restore or replace your primary home (including a mobile home used as a primary residence) and your personal or business property as nearly as possible to their condition before the disaster occurred, and within certain limits, to protect damaged or destroyed real property from possible future similar disasters.

§ 123.8 Does SBA charge any fees for obtaining a disaster loan?

SBA does not charge points, closing, or servicing fees on any disaster loan authorized under Section 7(b). You will be responsible for payment of any closing costs owed to third parties on these loans, such as recording fees and title insurance premiums. If your loan is made under Section 7(b) in participation with a financial institution, SBA will charge a guarantee fee to the financial institution, which then may recover the guarantee fee from you. SBA does not charge a guarantee fee for an IDAP loan made under Section 42.

[75 FR 60598, Oct. 1, 2010]

§ 123.9 What happens if I don't use loan proceeds for the intended purpose?

(a) For disaster loans authorized under Section 7(b), when SBA approves each application, it issues a loan authorization which specifies the amount of the loan, repayment terms, any collateral requirements, and the permitted use of loan proceeds. If you wrongfully misapply the proceeds of a disaster loan authorized under Section 7(b), you will be liable to SBA for one and one-half times the proceeds disbursed to you as of the date SBA learns of your wrongful misapplication. Wrongful misapplication means the willful use of any loan proceeds without SBA approval contrary to the loan authorization. If you fail to use loan proceeds for authorized purposes for 60 days or more after receiving a loan disbursement check, such non-use also is considered a wrongful misapplication of the proceeds.

(b) If SBA learns that you may have misapplied your loan proceeds from a disaster loan authorized under Section